IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 536 OF 2007**
**WITH**
**CIVIL APPLICATION NO. 737 OF 2007**
**IN**
**A.O. NO. 536 OF 2007**

Mr.Prakash S/o.Hanumant Nakhwa .. Appellant.

V/s.

Municipal Corporation of Gr.Mumbai .. Respondents.

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**WITH**

**APPEAL FROM ORDER NO. 537 OF 2007**
**WITH**
**CIVIL APPLICATION NO. 738 OF 2007**
**IN**
**A.O. NO. 537 OF 2007**

Mrs.Subhangi W/o.Shivdas Tare .. Appellant.

V/s.

Municipal Corporation of Gr.Mumbai .. Respondents.

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Mr.A.M.Saraogi for the Appellant in both the AO.

Mrs. Geeta Joglekar for the BMC-Respondents.

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**CORAM : S. A. BOBDE, J.**

**DATED : 30th JULY, 2007.**

**P.C. :-**

. Admit both the Appeals. Taken up both the appeals for final disposal by consent of the parties.

2. The appellants in both these Appeals, have challenged the order of refusing, ad-interim relief. It is their contention that the work has been stopped and therefore, notice under section 354A of the BMC Act, cannot be pursued in view of the observations of the learned single Judge of this court in A.O. 534 of 2004 decided on 27th of August, 2003 (Kakade, J). The learned counsel for the respondents submitted that the injunction was refused on the ground of delay. It is true that the interim relief was refused on the ground of delay. However, from the facts of the present case, it was necessary for the trial court to consider the applicability of section 354A with reference to the construction of the appellants.

3. In the circumstances, it would be appropriate in the interest of justice to direct the protection of the structure in dispute with a further direction to the trial court to dispose of the notice of motions not later than three months from the next date.

4. The Appeals with the Civil Applications are disposed of accordingly.

(S.A.BOBDE,J.)

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